

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #13	CCRB Case #: 201901827	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/20/2019 7:15 PM	Location of Incident: 115th Precinct stationhouse	Precinct: 115	18 Mo. SOL 8/20/2020	EO SOL 4/6/2021	
Date/Time CV Reported Wed, 02/20/2019 7:55 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 02/28/2019 11:08 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Luis Cabrera	03341	918802	115 PCT
2. POM Timothy Murphy	05870	960990	115 PCT
3. Officers			115 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Caitlin Mcnamara	18399	944797	115 PCT
2. POM Scott Towne	28283	954379	115 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Luis Cabrera	Discourtesy: Sergeant Luis Cabrera acted discourteously toward § 87(2)(b)	
B.POM Timothy Murphy	Force: Police Officer Timothy Murphy used physical force against § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D.POM Timothy Murphy	Abuse: Police Officer Timothy Murphy threatened to arrest § 87(2)(b)	

### Case Summary

On February 20, 2019, § 87(2)(b) filed this complaint with IAB by phone. The complaint was received by the CCRB on February 28, 2019 under IAB Log #2019-7666.

On February 20, 2019, at about 7:15 p.m., § 87(2)(b) and his friend, § 87(2)(b) went to the 115<sup>th</sup> Precinct stationhouse to retrieve vouchered property. Sgt. Luis Cabrera of the 115<sup>th</sup> Precinct took § 87(2)(b) property voucher and allegedly threw it back at him (**Allegation A: Discourtesy**, § 87(2)(g)). PO Timothy Murphy allegedly pulled § 87(2)(b) out of the stationhouse (**Allegation B: Force**; § 87(2)(g)). Officers allegedly pushed § 87(2)(b) out of the stationhouse (**Allegation C: Force**; § 87(2)(g)). PO Murphy allegedly threatened to arrest § 87(2)(b) (**Allegation D: Abuse of Authority**; § 87(2)(g)).

No arrests or summonses resulted from this incident.

There is no video evidence of this incident.

### Findings and Recommendations

#### Allegation A - Abuse of Authority: Sergeant Luis Cabrera acted discourteously toward

§ 87(2)(b)

#### Allegation B – Force: Police Officer Timothy Murphy used physical force against

§ 87(2)(b)

#### Allegation C – Force: Officers used physical force against

#### Allegation D – Abuse of Authority: Police Officer Timothy Murphy threatened to arrest

§ 87(2)(b)

§ 87(2)(b) testified that he and § 87(2)(b) went to the stationhouse to retrieve property which was vouchered § 87(2)(b) (BR01). § 87(2)(b) and § 87(2)(b) went to the telephone switchboard operator station and spoke with an officer identified by the investigation as PO Caitlin McNamara of the 115<sup>th</sup> Precinct. § 87(2)(b) asked if he could see his motorcycle which was impounded in connection with his arrest. PO McNamara said no. § 87(2)(b) complained to PO McNamara about her attitude. Sgt. Cabrera stood up and asked § 87(2)(b) what he and § 87(2)(b) wanted. § 87(2)(b) handed his property voucher to Sgt. Cabrera. Sgt. Cabrera looked at the property voucher, then threw it back at § 87(2)(b). The property voucher landed on the floor. Six to seven officers appeared from a back room. PO Murphy grabbed § 87(2)(b) by the shoulder and pulled him to the stationhouse entrance. Two officers, who § 87(2)(b) could not describe, pushed § 87(2)(b) out of the stationhouse. Outside the stationhouse, § 87(2)(b) asked when he could return to get his property. PO Murphy told him, “When I’m not here. If you return before midnight you’re going to get arrested.” § 87(2)(b) and § 87(2)(b) left. § 87(2)(b) did not sustain any injuries.

§ 87(2)(b) provided a brief phone statement (BR02). § 87(2)(b) and § 87(2)(b) went to the stationhouse to retrieve vouchered property. PO McNamara refused to help § 87(2)(b) and § 87(2)(b). About 10 male officers, who § 87(2)(b) could not describe, pushed § 87(2)(b) and § 87(2)(b) out of the stationhouse. § 87(2)(b) did not sustain any injuries. § 87(2)(b) was

ultimately uncooperative in providing a sworn statement about the incident (See investigative actions for contact attempts).

Sgt. Cabrera and PO Mcnamara provided the following generally consistent testimony (BR03-04). § 87(2)(b) and § 87(2)(b) entered the stationhouse and said they were trying to retrieve vouchered property. § 87(2)(b) was loud, unruly, and refused to calm down. § 87(2)(b) crumbled his property voucher and threw it at PO Mcnamara. Sgt. Cabrera picked up the crumbled paper, opened it up, and handed it back to § 87(2)(b). Sgt. Cabrera did not throw anything at § 87(2)(b). Sgt. Cabrera told § 87(2)(b) and § 87(2)(b) that if they did not calm down, they would have to leave the stationhouse. § 87(2)(b) and § 87(2)(b) continued being loud and disorderly. Sgt. Cabrera told § 87(2)(b) and § 87(2)(b) to leave. PO Murphy and PO Scott Towne, of the 115<sup>th</sup> Precinct, appeared and escorted § 87(2)(b) and § 87(2)(b) out of the stationhouse. § 87(2)(b) and § 87(2)(b) walked out of the stationhouse on their own while yelling about needing to retrieve their property. No force was used by any officer against § 87(2)(b) or § 87(2)(b).

§ 87(2)(g) (BR05-06). While at the stationhouse on their lunch break, PO Murphy and PO Towne heard loud arguing in the lobby of the stationhouse. PO Murphy and PO Towne went to see what was happening. Sgt. Cabrera was telling § 87(2)(b) and § 87(2)(b) to leave the stationhouse. Sgt. Cabrera did not throw anything at § 87(2)(b). PO Towne and PO Murphy walked toward § 87(2)(b) and § 87(2)(b) to escort them out of the stationhouse. § 87(2)(b) and § 87(2)(b) turned around and walked out of the stationhouse on their own. No force was used against § 87(2)(b) or § 87(2)(b) and the officers denied that anyone made physical contact with § 87(2)(b) or § 87(2)(b). Nobody threatened to arrest § 87(2)(b) or § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

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#### **Civilian and Officer CCRB Histories**

- This is the second complaint to which § 87(2)(b) has been a party (BR08).
  - § 87(2)(b)
- This is the first complaint to which § 87(2)(b) has been a party (BR09).
- Sgt. Cabrera has been a member of the service for 22 years, has been a subject in 10 complaints involving eight allegations, two of which were substantiated. § 87(2)(g)
  - CCRB 9900004 involved a substantiated entry allegation against Sgt. Cabrera. The Board recommended instructions and the NYPD imposed no discipline.
  - CCRB 200717220 involved a substantiated vehicle search allegation against Sgt. Cabrera. The Board recommended Charges and the NYPD imposed Instructions.
- PO Murphy has been a member of the service for three years and this is the first complaint in which he is a subject.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- As of May 31, 2019, the NYC Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR10).
- § 87(2)(b) and § 87(2)(b) have no history of any convictions in NYC (BR11).

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Squad No.: 13

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date